

1 BILL LOCKYER, Attorney General
of the State of California
2 JAMI L. CANTORE, State Bar No. 165410
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-2569
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6 Attorneys for Complainant

7 **BEFORE THE**
8 **BOARD OF PHARMACY**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

11 GLENN MARTIN WILSON
4083 West Ave. L - PMB 360
12 Quartz Hill, CA 93536

13 Pharmacist License No. RPH 24202

14 and

15 GLENN MARTIN WILSON,
dba DESERT PHARMACY
16 204 West Ave. J
Lancaster, CA 93534

17 Original Pharmacy Permit No. PHY 32443,
18

19 Respondents.
20

Case No. 2650

OAH No. L2004040356

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

21 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
22 proceeding that the following matters are true:

23 **PARTIES**

24 1. Patricia F. Harris (Complainant) is the Executive Officer of the Board of
25 Pharmacy. She brought this action solely in her official capacity and is represented in this matter
26 by Bill Lockyer, Attorney General of the State of California, by Jami L. Cantore, Deputy
27 Attorney General.

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1 2. Glenn Martin Wilson (Respondent) is represented in this proceeding by
2 attorney John W. Berger, whose address is 521 Park Avenue, Laguna Beach, CA 92651.

3 3. On or about February 27, 1986, the Board of Pharmacy issued Pharmacist
4 License No. RPH 24202 to Glenn Martin Wilson. The License will expire on April 30, 2005,
5 unless renewed.

6 4. On or about February 27, 1986, the Board of Pharmacy issued Original
7 Pharmacy Permit No. 32443 to Glenn Martin Wilson to do business as Desert Pharmacy
8 (Respondent Desert Pharmacy). Glenn Martin Wilson has been the Pharmacist-in-Charge since
9 February 1986. The pharmacy permit was in full force and effect at all times relevant to the
10 charges brought herein. On October 25, 2002, a discontinuance of business was filed.

11 JURISDICTION

12 5. Accusation No. 2650 was filed before the Board of Pharmacy (Board),
13 Department of Consumer Affairs, and is currently pending against Respondents. The Accusation
14 and all other statutorily required documents were properly served on Respondents on February
15 19, 2004. Respondents timely filed his Notice of Defense contesting the Accusation. A copy of
16 Accusation No. 2650 is attached as Exhibit A and incorporated herein by reference.

17 ADVISEMENT AND WAIVERS

18 6. Respondents have carefully read, fully discussed with counsel, and
19 understand the charges and allegations in Accusation No. 2650. Respondents also have carefully
20 read, fully discussed with counsel, and understand the effects of this Stipulated Surrender of
21 License and Order.

22 7. Respondents are fully aware of their legal rights in this matter, including
23 the right to a hearing on the charges and allegations in the Accusation; the right to be represented
24 by counsel, at Respondents' own expense; the right to confront and cross-examine the witnesses
25 against them; the right to present evidence and to testify on their own behalf; the right to the
26 issuance of subpoenas to compel the attendance of witnesses and the production of documents;
27 the right to reconsideration and court review of an adverse decision; and all other rights accorded
28 by the California Administrative Procedure Act and other applicable laws.

1 8. Respondents voluntarily, knowingly, and intelligently waive and gives up
2 each and every right set forth above.

3 CULPABILITY

4 9. Respondents understand that the charges and allegations in Accusation No.
5 2650, if proven at a hearing, constitute cause for imposing discipline upon Pharmacist License
6 No. RPH 24202 and Pharmacy Permit PHY 32443.

7 10. For the purpose of resolving the Accusation without the expense and
8 uncertainty of further proceedings, Respondents agree that, at a hearing, Complainant could
9 establish a factual basis for the charges in the Accusation and that those charges constitute cause
10 for discipline. Respondents hereby give up their right to contest that cause for discipline exists
11 based on those charges.

12 11. Respondents understand that by signing this stipulation, Respondents
13 enable the Board to issue an order accepting the surrender of Respondents' Pharmacist License
14 and Pharmacy Permit without further process.

15 RESERVATION

16 12. The admissions made by Respondents herein are only for the purposes of
17 this proceeding, or any other proceedings in which the Board of Pharmacy or other professional
18 licensing agency is involved, and shall not be admissible in any other criminal or civil
19 proceeding.

20 CONTINGENCY

21 13. This stipulation shall be subject to approval by the Board of Pharmacy.
22 Respondents understand and agree that counsel for Complainant and the staff of the Board of
23 Pharmacy may communicate directly with the Board regarding this stipulation and settlement,
24 without notice to or participation by Respondents or Respondents' counsel. By signing the
25 stipulation, Respondents understand and agree that they may not withdraw this agreement or seek
26 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
27 to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary
28 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal

1 action between the parties, and the Board shall not be disqualified from further action by having
2 considered this matter.

3 14. The parties understand and agree that facsimile copies of this Stipulated
4 Surrender of License and Order, including facsimile signatures thereto, shall have the same force
5 and effect as the originals.

6 15. In consideration of the foregoing admissions and stipulations, the parties
7 agree that the (Board) may, without further notice or formal proceeding, issue and enter the
8 following Order:

9 **ORDER**

10 IT IS HEREBY ORDERED that Pharmacist License No. RPH 24202, issued to
11 Glenn Martin Wilson, and Original Pharmacy Permit No. PHY 32443, issued to Glenn Martin
12 Wilson to do business as Desert Pharmacy, are surrendered and accepted by the Board of
13 Pharmacy.

14 16. The surrender of Respondents' Pharmacist License and Pharmacy Permit,
15 and the acceptance of the surrendered license and permit by the Board shall constitute the
16 imposition of discipline against Respondents. This stipulation constitutes a record of the
17 discipline and shall become a part of Respondents' license histories with the Board.

18 17. Respondent Glenn Martin Wilson shall lose all rights and privileges as a
19 Pharmacist in California as of the effective date of the Board's Decision and Order.

20 18. Respondents surrender License No. RPH 24202 and Permit No. PHY
21 32443 as of the effective date of this Decision. Respondents shall relinquish their wall licenses
22 and pocket renewal licenses to the Board within ten (10) days of the effective date of this
23 Decision.

24 19. Respondents may not reapply for any license, permit, or registration from
25 the Board for three years from the effective date of this Decision. Respondents stipulate that
26 should they apply for any license from the Board on or after the effective date of this Decision,
27 all allegations set forth in the accusation shall be deemed to be true. Respondents shall satisfy all
28 requirements applicable to that license as of the date the application is submitted to the Board,

including, but not limited to taking and passing the California Pharmacist Licensure Examination prior to the issuance of a new license. Respondents are obligated to report this surrender as disciplinary action.

20. Respondents shall pay the Board its costs of investigation and enforcement in the amount of \$20,000.00 within thirty (30) days of the effective date of this Decision. If Respondents fail to pay the cost recovery to the Board within thirty (30) days of the effective date, Respondents' Pharmacist License No. RPH 24202 and Pharmacy Permit No. PHY 32443 will be deemed revoked, and Respondents' license histories will reflect the same.

ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney, John W. Berger. I understand the stipulation and the effect it will have on my Pharmacist License and Pharmacy Permit. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

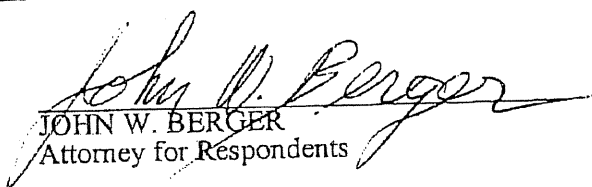
DATED: December 1, 2004

Glenn Martin Wilson

GLENN MARTIN WILSON, GLENN
MARTIN WILSON dba DESERT PHARMACY
Respondents

1 I have read and fully discussed with Respondent Glenn Martin Wilson the terms
2 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
3 Order. I approve its form and content.

4
5 DATED: 12-1-04

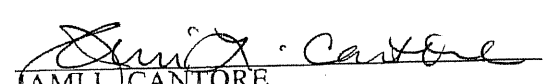
6
7 
8 JOHN W. BERGER
Attorney for Respondents

9
10
11 ENDORSEMENT

12 The foregoing Stipulated Surrender of License and Order is hereby respectfully
13 submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

14
15 DATED: 12/15/04

16
17 BILL LOCKYER, Attorney General
of the State of California

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19 
20 JAMI L. CANTORE
Deputy Attorney General

21 Attorneys for Complainant
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**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

GLENN MARTIN WILSON
4083 West Ave. L - PMB 360
Quartz Hill, CA 93536

Pharmacist License No. RPH 24202

and

GLENN MARTIN WILSON,
dba DESERT PHARMACY
204 West Ave. J
Lancaster, CA 93534

Original Pharmacy Permit No. PHY 32443,

Respondents.

Case No. 2650

OAH No. L2004040356

DECISION AND ORDER

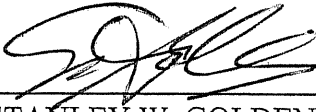
The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on March 30, 2005.

It is so ORDERED February 28, 2005.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STANLEY W. GOLDENBERG
Board President

Exhibit A
Accusation No. 2650

1 BILL LOCKYER, Attorney General
of the State of California
2 JAMI L. CANTORE, State Bar No. 165410
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-2569
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6 Attorneys for Complainant

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8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 2650

11 GLENN MARTIN WILSON,
dba DESERT PHARMACY
12 204 West Ave. J
Lancaster, CA 93534

A C C U S A T I O N

13 Original Pharmacy Permit No. PHY 32443

14 and

15 GLENN MARTIN WILSON
16 42234 West 71st St
Lancaster, CA 93536

17 Original Pharmacist License No. RPH 24202

18 and

19 CHARLES K. PFISTER
20 353 Genoa Dr.
Simi Valley, CA 93065

21 Original Pharmacist License No. RPH 22641

22 Respondents.
23

24
25 Complainant alleges:

26 **PARTIES**

27 1. Patricia F. Harris (Complainant) brings this Accusation solely in her
28 official capacity as the Executive Officer of the Board of Pharmacy, Department of

Consumer Affairs.

2. On or about February 27, 1986, the Board of Pharmacy issued Original Pharmacy Permit No. 32443 to Glenn Martin Wilson to do business as Desert Pharmacy (Respondent Desert Pharmacy). Glenn Martin Wilson has been the Pharmacist-in-Charge since February 1986. The pharmacy permit was in full force and effect at all times relevant to the charges brought herein. On October 25, 2002, a discontinuance of business was filed.

3. On or about August 13, 1965, the Board of Pharmacy issued Original Pharmacist License No. RPH 24202 to Glenn M. Wilson (Respondent Wilson). The license was in full force and effect at all times relevant to the charges brought herein and will expire on April 30, 2005, unless renewed.

4. On or about July 30, 1962, the Board of Pharmacy issued Original Pharmacist License No. RPH 22641 to Charles K. Pfister (Respondent Pfister). The license was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2004, unless renewed.

JURISDICTION

5. This Accusation is brought before the Board of Pharmacy (Board), Department of Consumer Affairs, under the authority of the following laws.

6. Business and Professions Code section 4300 states, in pertinent part:

"(a) Every license issued may be suspended or revoked.

"(b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:

"(1) Suspending judgment.

"(2) Placing him or her upon probation.

"(3) Suspending his or her right to practice for a period not exceeding one year.

"(4) Revoking his or her license.

1 "(5) Taking any other action in relation to disciplining him or her as the board
2 in its discretion may deem proper."

3

4 "(e) The proceedings under this article shall be conducted in accordance with
5 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government
6 Code, and the board shall have all the powers granted therein. The action shall be final,
7 except that the propriety of the action is subject to review by the superior court pursuant to
8 Section 1094.5 of the Code of Civil Procedure."

9 7. Business and Professions Code section 4301 states, in pertinent part:

10 "The board shall take action against any holder of a license who is guilty of
11 unprofessional conduct or whose license has been procured by fraud or misrepresentation or
12 issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the
13 following:

14

15 "(d) The clearly excessive furnishing of controlled substances in violation of
16 subdivision (a) of Section 11153 of the Health and Safety Code.

17 "(e) The clearly excessive furnishing of controlled substances in violation of
18 subdivision (a) of Section 11153.5 of the Health and Safety Code. Factors to be considered
19 in determining whether the furnishing of controlled substances is clearly excessive shall
20 include, but not be limited to, the amount of controlled substances furnished, the previous
21 ordering pattern of the customer (including size and frequency of orders), the type and size
22 of the customer, and where and to whom the customer distributes its product.

23

24 "(j) The violation of any of the statutes of this state or of the United States
25 regulating controlled substances and dangerous drugs.

26

27 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or
28 abetting the violation of or conspiring to violate any provision or term of this chapter or of

1 the applicable federal and state laws and regulations governing pharmacy, including
2 regulations established by the board.

3

4 "(q) Engaging in any conduct that subverts or attempts to subvert an
5 investigation of the board ."

6 8. Business and Professions Code section 4059, subdivision (a), states:

7 "A person may not furnish any dangerous drug except upon the prescription
8 of a physician, dentist, podiatrist, optometrist, or veterinarian. A person may not furnish
9 any dangerous device, except upon the prescription of a physician, dentist, podiatrist,
10 optometrist, or veterinarian."

11 9. Business and Professions Code section 4063 states:

12 "No prescription for any dangerous drug or dangerous device may be refilled
13 except upon authorization of the prescriber. The authorization may be given orally or at the
14 time of giving the original prescription. No prescription for any dangerous drug that is a
15 controlled substance may be designated refillable as needed."

16 10. Business and Professions Code section 4070, subdivision (a), states:

17 "Except as provided in Section 4019 and subdivision (b), an oral or an
18 electronic data transmission prescription as defined in subdivision (c) of Section 4040 shall
19 as soon as practicable be reduced to writing by the pharmacist and shall be filled by, or
20 under the direction of, the pharmacist. The pharmacist need not reduce to writing the
21 address, telephone number, license classification, federal registry number of the prescriber
22 or the address of the patient or patients if the information is readily retrievable in the
23 pharmacy."

24 11. Business and Professions Code section 4076, subdivision (a), states:

25 "A pharmacist shall not dispense any prescription except in a container that
26 meets the requirements of state and federal law and is correctly labeled with all of the
27 following:

28 ///

1 "(1) Except where the prescriber or the certified nurse-midwife who functions
2 pursuant to a standardized procedure or protocol described in Section 2746.51, the nurse
3 practitioner who functions pursuant to a standardized procedure described in Section 2836.1,
4 or protocol, or the physician assistant who functions pursuant to Section 3502.1 orders
5 otherwise, either the manufacturer's trade name of the drug or the generic name and the
6 name of the manufacturer. Commonly used abbreviations may be used. Preparations
7 containing two or more active ingredients may be identified by the manufacturer's trade
8 name or the commonly used name or the principal active ingredients.

9 "(2) The directions for the use of the drug.

10 "(3) The name of the patient or patients.

11 "(4) The name of the prescriber and, if applicable, the certified nurse-midwife
12 who functions pursuant to a standardized procedure or protocol described in Section
13 2746.51, the

14 nurse practitioner who functions pursuant to a standardized procedure described in Section
15 2836.1, or protocol, or the physician assistant who functions pursuant to Section 3502.1.

16 "(5) The date of issue.

17 "(6) The name and address of the pharmacy, and prescription number or other
18 means of identifying the prescription.

19 "(7) The strength of the drug or drugs dispensed.

20 "(8) The quantity of the drug or drugs dispensed.

21 "(9) The expiration date of the effectiveness of the drug dispensed.

22 "(10) The condition for which the drug was prescribed if requested by the
23 patient and the condition is indicated on the prescription."

24 12. Business and Professions Code section 4077, subdivision (a), states:

25 "Except as provided in subdivisions (b) and (c) of this section, no person
26 shall dispense any dangerous drug upon prescription except in a container correctly labeled
27 with the information required by Section 4076."

28 ///

1 13. Business and Professions Code section 4081 states:

2 "(a) All records of manufacture and of sale, acquisition, or disposition of
3 dangerous drugs or dangerous devices shall be at all times during business hours open to
4 inspection by authorized officers of the law, and shall be preserved for at least three years
5 from the date of making. A current inventory shall be kept by every manufacturer,
6 wholesaler, pharmacy, veterinary food-animal drug retailer, physician, dentist, podiatrist,
7 veterinarian, laboratory, clinic, hospital, institution, or establishment holding a currently
8 valid and unrevoked certificate, license, permit, registration, or exemption under Division 2
9 (commencing with Section 1200) of the Health and Safety Code or under Part 4
10 (commencing with Section 16000) of Division 9 of the Welfare and Institutions Code who
11 maintains a stock of dangerous drugs or dangerous devices.

12 "(b) The owner, officer, and partner of any pharmacy, wholesaler, or
13 veterinary food-animal drug retailer shall be jointly responsible, with the
14 pharmacist-in-charge or exemptee, for maintaining the records and inventory described in
15 this section.

16 "(c) The pharmacist-in-charge or exemptee shall not be criminally
17 responsible for acts of the owner, officer, partner, or employee that violate this section and
18 of which the pharmacist-in-charge or exemptee had no knowledge, or in which he or she did
19 not knowingly participate."

20 14. Business and Professions Code section 4113, subdivision (b), states:

21 "The pharmacist-in-charge shall be responsible for a pharmacy's compliance with all state
22 and federal laws and regulations pertaining to the practice of pharmacy."

23 15. Business and Professions Code section 4116, subdivision (a), states:

24 "No person other than a pharmacist, an intern pharmacist, an authorized
25 officer of the law, or a person authorized to prescribe shall be permitted in that area, place,
26 or premises described in the license issued by the board wherein controlled substances or
27 dangerous drugs or dangerous devices are stored, possessed, prepared, manufactured,
28 derived, compounded, dispensed, or repackaged. However, a pharmacist shall be responsible

1 for any individual who enters the pharmacy for the purposes of receiving consultation from
2 the pharmacist or performing clerical, inventory control, housekeeping, delivery,
3 maintenance, or similar functions relating to the pharmacy if the pharmacist remains present
4 in the pharmacy during all times as the authorized individual is present."

5 16. Business and Professions Code section 4306.5 states:

6 "Unprofessional conduct for a pharmacist may include acts or omissions that
7 involve, in whole or in part, the exercise of his or her education, training, or experience as a
8 pharmacist, whether or not the act or omission arises in the course of the practice of
9 pharmacy or the ownership, management, administration, or operation of a pharmacy or
10 other entity licensed by the board."

11 17. Health and Safety Code section 11153, subdivision (a), states:

12 "A prescription for a controlled substance shall only be issued for a legitimate
13 medical purpose by an individual practitioner acting in the usual course of his or her
14 professional practice. The responsibility for the proper prescribing and dispensing of
15 controlled substances is upon the prescribing practitioner, but a corresponding responsibility
16 rests with the pharmacist who fills the prescription. Except as authorized by this division,
17 the following are not legal prescriptions: (1) an order purporting to be a prescription which
18 is issued not in the usual course of professional treatment or in legitimate and authorized
19 research; or (2) an order for an addict or habitual user of controlled substances, which is
20 issued not in the course of professional treatment or as part of an authorized narcotic
21 treatment program, for the purpose of providing the user with controlled substances,
22 sufficient to keep him or her comfortable by maintaining customary use."

23 18. Health and Safety Code section 11200, states, in pertinent part:

24 "(a) No person shall dispense or refill a controlled substance prescription
25 more than six months after the date thereof.

26 "(b) No prescription for a Schedule III or IV substance may be refilled more
27 than five times and in an amount, for all refills of that prescription taken together,
28 exceeding a 120-day supply."

1 19. California Code of Regulations, title 16, section 1707.3 states:

2 "Prior to consultation as set forth in section 1707.2, a pharmacist shall review
3 a patient's drug therapy and medication record before each prescription drug is delivered.
4 The review shall include screening for severe potential drug therapy problems."

5 20. California Code of Regulations, title 16, section 1714 states, in
6 pertinent part:

7 "(b) Each pharmacy licensed by the board shall maintain its facilities, space,
8 fixtures, and equipment so that drugs are safely and properly prepared, maintained, secured
9 and distributed. The pharmacy shall be of sufficient size and unobstructed area to
10 accommodate the safe practice of pharmacy.

11
12 "(d) Each pharmacist while on duty shall be responsible for the security of
13 the prescription department, including provisions for effective control against theft or
14 diversion of dangerous drugs and devices, and records for such drugs and devices.
15 Possession of a key to the pharmacy where dangerous drugs and controlled substances are
16 stored shall be restricted to a pharmacist."

17 21. California Code of Regulations, title 16, section 1716 states, in
18 pertinent part:

19 "Pharmacists shall not deviate from the requirements of a prescription except
20 upon the prior consent of the prescriber or to select the drug product in accordance with
21 Section 4073 of the Business and Professions Code."

22 22. California Code of Regulations, title 16, section 1717, subdivision (c),
23 states:

24 "Promptly upon receipt of an orally transmitted prescription, the pharmacist
25 shall reduce it to writing, and initial it, and identify it as an orally transmitted prescription. If
26 the prescription is then dispensed by another pharmacist, the dispensing pharmacist shall
27 also initial the prescription to identify him or herself.

28 "All orally transmitted prescriptions shall be received and transcribed by a

1 pharmacist prior to compounding, filling, dispensing, or furnishing.

2 "Chart orders as defined in Section 4019 of the Business and Professions
3 Code are not subject to the provisions of this subsection."

4 23. California Code of Regulations, title 16, section 1718, states:

5 "Current Inventory' as used in Sections 4081 and 4332 of the Business and
6 Professions Code shall be considered to include complete accountability for all dangerous
7 drugs handled by every licensee enumerated in Sections 4081 and 4332.

8 "The controlled substances inventories required by Title 21, CFR, Section
9 1304 shall be available for inspection upon request for at least 3 years after the date of the
10 inventory."

11 24. California Code of Regulations, title 16, section 1764 states:

12 "No pharmacist shall exhibit, discuss, or reveal the contents of any
13 prescription, the therapeutic effect thereof, the nature, extent, or degree of illness suffered by
14 any patient or any medical information furnished by the prescriber with any person other
15 than the patient or his or her authorized representative, the prescriber or other licensed
16 practitioner then caring for the patient, another licensed pharmacist serving the patient, or a
17 person duly authorized by law to receive such information."

18 25. Business and Professions Code section 118, subdivision (b), states:

19 "The suspension, expiration, or forfeiture by operation of law of a license
20 issued by a board in the department, or its suspension, forfeiture, or cancellation by order of
21 the board or by order of a court of law, or its surrender without the written consent of the
22 board, shall not, during any period in which it may be renewed, restored, reissued, or
23 reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding
24 against the licensee upon any ground provided by law or to enter an order suspending or
25 revoking the license or otherwise taking disciplinary action against the licensee on any such
26 ground."

27 26. Business and Professions Code section 125.3, subdivision (a), states,
28 in pertinent part:

1 "Except as otherwise provided by law, in any order issued in resolution of a
2 disciplinary proceeding before any board within the department . . . the board may request
3 the administrative law judge to direct a licentiate found to have committed a violation or
4 violations of the licensing act to pay a sum not to exceed the reasonable costs of the
5 investigation and enforcement of the case."

6 27. CONTROLLED SUBSTANCES

7 A. "Lorcet" is the brand name for Hydrocodone with Acetaminophen. It
8 is a Schedule III narcotic controlled substance, as defined by Health and Safety Code section
9 11056(e), and is categorized as a "dangerous drug" pursuant to Business and Professions
10 Code section 4022.

11 B. "Lorcet Plus" is the brand name for Hydrocodone with
12 Acetaminophen. It is Schedule III narcotic controlled substance, as defined by Health and
13 Safety Code section 11056(e), and is categorized as a "dangerous drug" pursuant to Business
14 and Professions Code section 4022.

15 C. "Phenergan with Codeine" is the brand name for Promethazine with
16 Codeine. It is Schedule V narcotic controlled substance, as defined by Health and Safety
17 Code section 11058(c), and is categorized as a "dangerous drug" pursuant to Business and
18 Professions Code section 4022.

19 D. "Vicodin" is the brand name for Hydrocodone with Acetaminophen.
20 It is Schedule III narcotic controlled substance, as defined by Health and Safety Code section
21 11056(e), and is categorized as a "dangerous drug" pursuant to Business and Professions
22 Code section 4022.

23 E. "Vicodin ES" is the brand name for Hydrocodone with
24 Acetaminophen. It is Schedule III narcotic controlled substance, as defined by Health and
25 Safety Code section 11056(e), and is categorized as a "dangerous drug" pursuant to Business
26 and Professions Code section 4022.

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1 **RESPONDENTS DESERT PHARMACY AND WILSON**

2 **FIRST CAUSE FOR DISCIPLINE**

3 **(Unprofessional Conduct – Failure to Maintain Records)**

4 28. Respondents Desert Pharmacy and Wilson are subject to discipline
5 pursuant to Business and Professions Code section 4300 and section 4301 for unprofessional
6 conduct within the meaning of Business and Professions Code section 4301, subdivisions (j)
7 and (o), for violating Business and Professions Code section 4081, subdivisions (a) and (b);
8 section 4113, subdivision (b); section 4116, subdivision (a); and California Code of
9 Regulations, title 16, section 1714, subdivisions (b) and (d); and section 1718, in that from
10 on or about January 16, 2001, to on or about March 25, 2002, Respondents failed to
11 maintain a complete accountability of inventory of hydrocodone with acetaminophen 7.5 mg
12 / 750 mg, hydrocodone with acetaminophen 10 mg / 650 mg, promethazine with codeine
13 syrup, and other hydrocodone with acetaminophen products, resulting in a loss of
14 approximately 18,831 tablets of hydrocodone with acetaminophen 7.5 mg / 750 mg; 64,202
15 tablets of hydrocodone with acetaminophen 10 mg / 650 mg; and 16,930 milliliters of
16 promethazine with codeine.

17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Unprofessional Conduct – Furnishing Dangerous Drugs without a Prescription)**

19 29. Respondents Desert Pharmacy and Wilson are subject to discipline
20 pursuant to Business and Professions Code section 4300 and section 4301 for unprofessional
21 conduct within the meaning of section 4301, subdivisions (j) and (o), for violating Business
22 and Professions Code section 4059, in that from on or about January 16, 2001 to on or about
23 March 25, 2002, Respondents furnished dangerous drugs without a prescription; filled and
24 refilled an unauthorized prescription for Vicodin ES to patient A.B.; filled forged
25 prescriptions for Vicodin ES to patients R. K., A. B. and C. K.; and furnished a
26 promethazine/albuterol liquid compound for Respondent Wilson's self-use without a valid
27 prescription.

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1 of Pharmacy by March 28, 2002.

2 FIFTH CAUSE FOR DISCIPLINE

3 (Unprofessional Conduct – Telephonic Prescription Transcribed by Pharmacy Technician)

4 32. Respondent Desert Pharmacy and Wilson are subject to discipline
5 pursuant to Business and Professions Code section 4300 and section 4301 for unprofessional
6 conduct within the meaning of section 4301, subdivisions (j) and (o), for violating Business
7 and Professions Code section 4070 and California Code of Regulations, title 16, section
8 1717, subdivision (c), in that during an inspection on March 25, 2002, Respondents allowed
9 Pharmacy Technician Nancy Berkheimer to receive and transcribe verbal telephone
10 prescription orders from prescribers. Respondent Wilson admittedly permitted Pharmacy
11 Technician Nancy Berkheimer to receive and transcribe verbal prescription orders in order
12 to help the pharmacists.

13 SIXTH CAUSE FOR DISCIPLINE

14 (Unprofessional Conduct – Unauthorized Disclosure of Patient Records)

15 33. Respondents Desert and Wilson are subject to discipline pursuant to
16 Business and Professions Code section 4300 and section 4301 for unprofessional conduct
17 within the meaning of section 4301, subdivisions (j) and (o), for violating California Code of
18 Regulations, title 16, section 1764, in that during July 2001, Respondents allowed a Desert
19 Pharmacy employee to remove a computer containing patient information from the
20 premises. The computer was in the employee's possession at her residence until October 21,
21 2002. The employee was terminated from Desert Pharmacy on July 24, 2001, and the
22 computer was not retrieved from her possession.

23
24 **RESPONDENTS DESERT PHARMACY, WILSON, AND PFISTER**

25 SEVENTH CAUSE FOR DISCIPLINE

26 (Unprofessional Conduct – Failure to Review Patient Records)

27 34. Respondents Desert Pharmacy, Wilson, and Pfister are subject to
28 discipline pursuant to Business and Professions Code section 4300 and section 4301 for

1 unprofessional conduct within the meaning of section 4301, subdivisions (j) and (o), for
2 violating California Code of Regulations, title 16, section 1707.3, in that from on or about
3 January 16, 2001 to March 25, 2002, Respondents failed to review the patient profiles for
4 misuse or overuse for patients M.G., A.G., A.B., H. T-B., N.J., W. H., W.C., and E. B., who
5 were on hydrocodone with acetaminophen product who consumed more than the maximum
6 recommended dose of four (4) grams of acetaminophen per day, who had prescription refills
7 exceeding the maximum of five (5) refills for a Schedule III controlled substance, who had
8 Schedule III controlled substance prescriptions refilled beyond six months from the original
9 prescription date, and who obtained controlled substance prescriptions through multiple
10 physician sources.

11 EIGHTH CAUSE FOR DISCIPLINE

12 (Unprofessional Conduct – Unauthorized Prescription Refills)

13 35. Respondents Desert Pharmacy, Wilson, and Pfister are subject to
14 discipline pursuant to Business and Professions Code section 4300 and section 4301 for
15 unprofessional conduct within the meaning of section 4301, subdivisions (j) and (o), and
16 Business and Professions Code section 4063, in that from on or about January 16, 2001 to
17 March 25, 2002, Respondents refilled controlled substance prescriptions for patients A.B.,
18 N.J., G.H., and J.J., without authorization from the prescribing physician.

19 NINTH CAUSE FOR DISCIPLINE

20 (Unprofessional Conduct – Incorrectly Labeled Prescription)

21 36. Respondents Desert Pharmacy, Wilson, and Pfister are subject to
22 discipline pursuant to Business and Professions Code section 4300 and section 4301 for
23 unprofessional conduct within the meaning of section 4301, subdivisions (j) and (o), for
24 violating Business and Professions Code section 4076 and section 4077, in that from on or
25 about January 16, 2001 to March 25, 2002, Respondents dispensed numerous prescriptions
26 with incorrect prescribers' names listed on the prescription labels. The incorrect labeling
27 occurred, but is not limited, as follows:

28 ///

<u>Patients</u>	<u>Prescription No.</u>
M. G.	417899
A. G.	399766
D. C.	432196
V. B.	401334

RESPONDENTS WILSON AND PFISTER

TENTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Improper Dispensing of Controlled Substances)

37. Respondents Wilson and Pfister are subject to discipline pursuant to Business and Professions Code section 4300 and section 4301 for unprofessional conduct within the meaning of section 4301, subdivisions (d), (e), (j), and (o), for violating Business and Professions Code section 4306.5 and Health and Safety Code section 11153, subdivision (a), in that from on or about on or about January 16, 2001 to March 25, 2002, Respondents improperly dispensed prescriptions presented by patients who used multiple prescribers to obtain hydrocodone with acetaminophen product and who had controlled substance prescriptions refilled too early, creating the potential for misuse or overuse.

RESPONDENTS DESERT PHARMACY AND PFISTER

ELEVENTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Deviation from Prescription)

38. Respondents Desert Pharmacy and Pfister are subject to discipline pursuant to Business and Professions Code section 4300 and section 4301 for unprofessional conduct within the meaning of section 4301, subdivisions (j) and (o), for violating California Code of Regulations, title 16, section 1716, in that on or about March 17, 2001, Respondent Pfister dispensed a prescription for Lorcet Plus 10 mg / 650 mg with hydrocodone and acetaminophen 7.5 mg / 650 mg.

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herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

- DATED: 2/9/04

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